

REMARKS

Applicant respectfully requests reconsideration. Claims 1, 3-13, 15-17, 22-33, 35-38, 40-51, 53-62 and 67-74 were previously pending in this application. By this amendment, Applicant has amended claims 1, 16, 17, 23, 24, 26, 28, 29, 31, 40, 53-55, 58, 59, 61, 68, 69, 71, 73 and 74 and has canceled claims 13, 15, 22, 25, 33, 35-38, 51, 56, 57, 67 and 70 without prejudice or disclaimer. Support for the claim amendments can be found in the claims as originally filed and/or throughout the instant specification. As a result, claims 1, 3-12, 16, 17, 23, 24, 26-32, 40-50, 53-55, 58-62, 68, 69 and 71-74 are pending for examination with claims 1 and 40 being independent claims.

No new matter has been added.

Rejections under 35 U.S.C. §112

Claim 12 is rejected under 35 U.S.C. §112, second paragraph, as allegedly failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner has indicated that claim 12 has no antecedent basis in claim 1.

Applicant respectfully traverses. Claim 12 indicates that a mammalian cell with a surface exposed MBL ligand is contacted with the MBL inhibitor and not the mammalian cell. While, the contact interaction in claim 1 is not limited to a mammalian cell, dependent claim 12 is introducing this feature.

Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 3-13, 15-17, 22-33, 35-38, 40-51, 53-62 and 67-74 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. The Examiner has indicated that the specification fails to describe the claimed invention in a way that would convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, has possession of the claimed invention.

Applicant respectfully traverses for at least the reasons previously provided. Nevertheless, Applicant has amended independent claims 1 and 40 to recite that the MBL inhibitor is an antibody or antigen-binding fragment thereof. Accordingly, it is believed that this rejection is now moot.

Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1, 3-13, 15-17, 22-33, 35-38, 40-51, 53-62 and 67-74 are rejected under 35 U.S.C. §112, first paragraph, for allegedly containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the claimed invention.

Applicant respectfully traverses for at least the reasons previously provided. Nevertheless, Applicant has amended independent claims 1 and 40 to recite that the MBL inhibitor is an antibody or antigen-binding fragment thereof. Accordingly, it is believed that this rejection is now moot.

Reconsideration and withdrawal of this rejection is respectfully requested.

Rejections Under 35 U.S.C. §102

Claims 1, 12, 30-33, 38, 40, 50, 51, 56 and 60-62 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 5,270,199.

Applicant respectfully traverses for at least the reasons previously provided. Additionally, Applicant notes that inhibition language does not appear solely in the preamble of the claims. Nevertheless, Applicant has amended independent claims 1 and 40 to recite that the MBL inhibitor is an antibody or antigen-binding fragment thereof. Accordingly, it is believed that this rejection is now moot.

Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1, 12, 30-33, 38, 40, 50, 51, 56 and 60-62 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Fischer et al. (Scand. J. Immunol. 39:439-45, 1994).

Applicant respectfully traverses for at least the reasons previously provided. Additionally, Applicant notes that inhibition language does not appear solely in the preamble of the claims. Nevertheless, Applicant has amended independent claims 1 and 40 to recite that the MBL inhibitor is an antibody or antigen-binding fragment thereof. Accordingly, it is believed that this rejection is now moot.

Reconsideration and withdrawal of this rejection is respectfully requested.

Rejections Under 35 U.S.C. §103

Claims 1, 6, 12, 13, 15, 25, 26, 30-33, 35, 38, 40, 44, 50, 51, 53, 56, 57, 60-63 and 70-71 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Endo et al. (Nephrol Dial Transplant. 1998 Aug; 13(8):1984-90).

Applicant respectfully traverses for at least the reasons previously provided. Additionally, the Examiner has not established a reasonable basis by which to assert that it would have been obvious to use the MBL inhibitors of the claims to inhibit cellular injury based on the cited reference. The Examiner is respectfully reminded that combining known prior art elements, if *arguendo* they were known, is not sufficient to render the claimed invention obvious if the results would not have been predictable to one of ordinary skill in the art. United States v. Adams, 383 U.S. 39, 51-52, 148 USPQ 479, 483-84 (1966). In fact, according to MPEP 2143.02, in order to support a conclusion that a claim would have been obvious, the Examiner must establish that the combination of known elements would have yielded nothing more than results predictable to one of ordinary skill in the art. The Examiner has provided nothing to establish that it would have been predictable to one of ordinary skill in the art that MBL inhibitors, if *arguendo* they were known, could be used to inhibit cellular injury based on the cited art.

Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1, 6, 12, 13, 15, 25, 26, 30-33, 35, 38, 40, 44, 50, 51, 53, 56, 57, 60-63 and 70-71 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Malhotra et al. (Nat Med. 1995(3):237-43) in view of Endo et al. (Nephrol Dial Transplant. 1998 Aug; 13(8):1984-90).

Applicant respectfully traverses for at least the reasons previously provided and as argued above.

Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1, 6, 12, 13, 15, 25, 26, 30-33, 35, 38, 40, 44, 50, 51, 53, 56, 57, 60-63, 70 and 71 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Matsuda et al. (Journal of Nephrology Association of Japan 39(3):235 (1997)) optionally in view of Endo et al. (Nephrol Dial Transplant. 1998 Aug; 13(8):1984-90).

Applicant respectfully traverses for at least the reasons previously provided and as argued above.

Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 22, 23, 25, 26, 28, 29, 36, 37, 54, 55, 67, 68, 73 and 74 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Endo et al. (Nephrol Dial Transplant. 1998 Aug; 13(8):1984-90) as applied to claims 1, 13, 33, 40, 51 and 70 and further in view of Owens et al.

Applicant respectfully traverses for at least the reasons previously provided and as argued above.

Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 22, 23, 25, 26, 28, 29, 36, 37, 54, 55, 67, 68, 73 and 74 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Malhotra et al. (Nat Med. 1995(3):237-43) in view of Endo et al. (Nephrol Dial Transplant. 1998 Aug; 13(8):1984-90) as applied to claims 1, 13, 33, 40, 51 and 70 and further in view of Owens et al.

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Claims 22, 23, 25, 26, 28, 29, 36, 37, 54, 55, 67, 68, 73 and 74 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Matsuda et al. (Journal of Nephrology Association of Japan 39(3):235 (1997)) optionally in view of Endo et al. (Nephrol Dial Transplant. 1998 Aug; 13(8):1984-90) as applied to claims 1, 13, 33, 40, 51 and 70 and further in view of Owens et al.

Applicant respectfully traverses for at least the reasons previously provided and as argued above.

Reconsideration and withdrawal of this rejection is respectfully requested.

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. A0752.70001US01.

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Respectfully submitted,

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